

SHIP CAROLINE.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS,
TRANSMITTING A COPY OF THE CONCLUSIONS OF LAW AND
FACT IN THE FRENCH SPOILIATION CASES RELATING TO SHIP
CAROLINE AGAINST THE UNITED STATES.

JANUARY 22, 1902.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS,
Washington, D. C., January 21, 1902.

SIR: Pursuant to the order of the Court of Claims, I transmit herewith the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel ship *Caroline*, Benjamin Glazier, master.

Respectfully,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. DAVID B. HENDERSON,
Speaker of the House of Representatives.

[Court of Claims. French Spoiliations. Act of January 20, 1885; 23 Stat. L., 283. Ship *Caroline*, Benjamin Glazier, master.]

No. of case.

Claimants.

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|-------|--|
| 2009. | Henry A. T. Granbery, administrator of John Granbery, <i>v.</i> The United States. |
| 2729. | John Newport Greene, administrator of Conway Whittle, <i>v.</i> The United States. |
| 3321. | Lucy S. Cushing, administrator of Jacob Sheafe, <i>v.</i> The United States. |
| 3875. | Francis A. Jewett, administrator of James Prince, <i>v.</i> The United States. |
| 4315. | Franklin A. Wilson, administrator of John Pearson, <i>v.</i> The United States. |
| 4657. | Charles G. Davis, administrator of Isaac P. Davis, <i>v.</i> The United States. |
| 4666. | H. Hollis Hunnewell, administrator of Arnold Welles, <i>v.</i> The United States. |
| 4684. | H. Hollis Hunnewell, administrator of John Welles, <i>v.</i> The United States. |
| 4321. | Francis A. Wilson, administrator of John Pearson, <i>v.</i> The United States. |
| 4355. | Samuel L. Caldwell, administrator of Josiah Smith, <i>v.</i> The United States. |

PRELIMINARY STATEMENT.

These cases were tried before the Court of Claims on the 13th day of March, 1901. The claimants were represented by John W. Butterfield, Edward Lander, George S. Boutwell, William T. S. Curtis, Theodore J. Pickett, and H. M. Earle, esqs., and the United States, defendants, by the Attorney-General, through his assistants in the Department of Justice, Charles W. Russell and John W. Trainer, esqs., with whom was Assistant Attorney-General Louis A. Pradt.

CONCLUSIONS OF FACT.

The court, upon the evidence and after hearing the arguments and considering same with the briefs of counsel on each side, determine the facts to be as follows:

I. The ship *Caroline*, Benjamin Glazier, master, sailed on a commercial voyage in the month of October, 1799, from Norfolk, in Virginia, bound for the island of St. Vincent.

While peacefully pursuing said voyage she was seized on the high seas by the French privateers *La Resolue* and *Les Deux Amis* and conducted to Basseterre, Guadeloupe, where said vessel and cargo were condemned and sold by the tribunal of commerce, and thereby became a total loss to the owners thereof.

The grounds of condemnation, as set forth in the decree, were certain informalities in the ship's roll.

II. The *Caroline* was a duly registered vessel of the United States of 211.98 tons burthen, was built at Amesbury, Mass., in the year 1792, and was owned by Josiah Smith, a citizen of the United States, residing in Newburyport, Mass.

III. The cargo of the *Caroline* at the time of capture consisted of lumber, and was owned by John Cornwell, a citizen of the United States, residing near Norfolk, in Virginia.

IV. The losses by reason of the capture and condemnation of the ship *Caroline* were as follows:

The value of the vessel.....	\$6,890.00
The freight earnings for the voyage.....	2,106.40
The value of the cargo.....	2,962.14
Value of effects of the master.....	333.33
Premium of insurance paid.....	1,710.99
Amounting in all to.....	14,002.86

V. Said John Cornwell, owner of the cargo of lumber shipped on the *Caroline*, caused the same to be insured in the office of John Granbery, of Norfolk, in the sum of \$2,520, by a policy dated November 30, 1798, paying therefor a premium of 17½ per cent. Said policy was underwritten by the following persons, citizens of the United States: John Cowper & Co., Francis Smith, Thomas Whitlock, James Young, Conway Whittle, and Moses Myers.

The firm of John Cowper & Co. was composed of John, Josiah, Robert, and William Cowper. John Cowper was the survivor of the firm.

Thereafter said underwriters duly paid to said Cornwell the sum for which they were liable, whereupon, June 26, 1799, the said Cornwell abandoned to said underwriters his interest in said cargo, so far as the same was covered by said policy of insurance.

VI. The ship *Caroline* was owned solely by said Josiah Smith. His losses were as follows:

Value of the vessel.....	\$6,890.00
Value of freight.....	2,106.40
Premiums of insurance paid.....	1,270.00
Amounting in all to.....	10,266.40
Deduct insurance received.....	5,300.00
Total.....	4,966.40

VII. Said Josiah Smith caused insurance to be effected in the office of John Pearson, jr., of Newburyport, in the sum of \$3,000, by a policy dated December 10, 1798, paying therefor a premium of 30 per cent. July 15, 1799, the said Pearson, as agent, duly paid to the said Smith the said sum of \$3,000, as and for a total loss on said policy by reason of the premises.

The underwriters on said policy who have appeared in this case by their legal representatives, and the loss sustained by each, are as follows:

Edward Emerson, jr.....	\$200
Jere Nelson.....	100
John Pearson.....	200
Zebedee Cook.....	100
William Cook.....	100
David Coffin.....	200
John Wells.....	200
Edmund Kimball.....	100
James Prince.....	200
John Pettingel.....	300

All of above underwriters were citizens of the United States.

Said Josiah Smith caused further insurance to be effected on said vessel in the office of said John Pearson, jr., in the sum of \$300, by an additional policy, dated December 8, 1798, paying therefor a premium of 30 per cent. July 15, 1799, said Pearson, as agent, duly paid to said Smith the sum of \$300, as and for a total loss on this policy by reason of the premises. Said policy was underwritten solely by James Prince, a citizen of the United States.

Said Benjamin Glazier, master of the *Caroline* and owner of certain effects on board, caused the same to be insured in the office of said John Pearson in the sum of \$333.33, by a policy dated December 8, 1798, paying therefor a premium of 30 per cent. August 29, 1799, the said Pearson duly paid the said Glazier the sum of \$333.33, as and for a total loss by reason of the premises.

The underwriters on said policy, who have appeared in this case by their legal representatives, and the loss sustained by each are as follows:

James Prince	\$83. 33
Jere Nelson.....	100. 00
Zebedee Cook.....	150. 00

Above underwriters were citizens of the United States.

VIII. Said Josiah Smith caused further insurance to be effected in the office of Josiah Taylor, of Boston, in the sum of \$2,000 on said vessel by a policy dated December 19, 1798, paying therefor a premium of 14 per cent. Said policy was underwritten by the following persons, all of whom were citizens of the United States, in the sums set opposite their names, viz:

James Scott	\$500
Arnold Welles	400
John Welles	500
Isaac P. Davis.....	300
Jacob Sheafe	300

May 21, 1799, the said Joseph Taylor, as agent, duly paid the said Smith the said sum of \$2,000 as and for a total loss on said policy by reason of the premises.

IX. The claimants herein have produced letters of administration upon the estates of the parties for whom they appear, and have otherwise proved, to the satisfaction of the court, that the persons for whose estates they have filed claims are in fact the same persons who suffered loss by seizure and condemnation of the *Caroline*, as set forth in the preceding findings.

Said claims were not embraced in the convention between the United States and the Republic of France concluded on the 30th of April, 1803. They were not claims growing out of the acts of France allowed and paid in whole or in part under the provisions of the treaty between the United States and Spain, concluded on the 22d of February, 1819, and were not allowed in whole or in part under the provisions of the treaty between the United States and France of the 4th of July, 1831.

The claimants, in their representative capacity, are the owners of said claims, which have never been assigned except as aforesaid.

CONCLUSIONS OF LAW.

The court decides as conclusions of law that said seizure and condemnation were illegal, and the owners and insurers had valid claims of indemnity therefor upon the French Government prior to the ratification of the convention between the United States and the French Republic, concluded on the 30th day of September, 1800; that said claims were relinquished to France by the Government of the United States by said treaty in part consideration of the relinquishment of certain national claims of France against the United States, and that the claimants are entitled to the following sums from the United States:

A. P. Warrington, administrator of John Cowper, four hundred and twenty dollars	\$420. 00
R. Manson Smith, administrator of Francis Smith, four hundred and twenty dollars	420. 00
Gilbert R. Fox, administrator of Thomas Willock, four hundred and twenty dollars	420. 00
John Newport Greene, administrator of Conway Whittle, four hundred and twenty dollars	420. 00
Jeremiah Nelson, administrator or Jere Nelson, two hundred dollars	200. 00
Franklin A. Wilson, administrator of John Pearson, two hundred dollars	200. 00
Amos Noyes, administrator of Zebidee Cook, two hundred and fifty dollars	250. 00
Amos Noyes, administrator of William Cook, one hundred dollars	100. 00

Joseph W. Thompson, administrator of David Coffin, two hundred dollars	\$200. 00
Joseph A. Titcomb, administrator of John Wells, two hundred dollars...	200. 00
Annie A. Kemble, administratrix of Edmund Kimball, one hundred dollars.....	100. 00
Francis A. Jewett, administrator of James Prince, five hundred and eighty-three dollars and thirty-three cents.....	583. 33
John N. Pike, administrator of John Pettingel, three hundred dollars....	300. 00
George G. King, administrator of James Scott, five hundred dollars	500. 00
H. H. Hunnewell, administrator of Arnold Welles, four hundred dollars.	400. 00
H. H. Hunnewell, administrator of John Welles, five hundred dollars ...	500. 00
Charles G. Davis, administrator of Isaac P. Davis, three hundred dollars ..	300. 00
Lucy S. Cushing, administrator of Jacob Sheafe, three hundred dollars ..	300. 00
Edward O. Emerson, administrator of Edward Emerson, jr., two hundred dollars.....	200. 00
Jane S. Gerrish, administratrix of Edward Toppan, two hundred dollars.	200. 00
Samuel L. Caldwell, administrator of Josiah Smith, four thousand nine hundred and sixty-six dollars and forty cents	4,966. 40

Total amount recoverable, eleven thousand one hundred and seventy-nine dollars and seventy-three cents 11,179. 73

No person claiming to represent James Young, Moses Myers, or John Cornwell has appeared in the case.

Henry A. T. Granbery has proved no valid claim.

By THE COURT.

Filed April 8, 1901.

A true copy.

Test this 21st day of January, A. D. 1902.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.